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PUBLIC NOTICE

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FEDERAL COMMUNICATIONS COMMISSION
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WASHINGTON, D.C. 20554

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Released: May 6, 1999

The Common Carrier Bureau Asks Parties to Update and Refresh Record for the Inmate Payphone Service Proceeding

Pleading Cycle Established

CC Docket No. 96-128

COMMENTS DUE DATE: June 21, 1999

REPLY COMMENTS DUE DATE: July 21, 1999

In a series of orders, the Commission has promulgated regulations to implement section 276 of the Telecommunications Act of 1996 (1996 Act) regarding the provision of payphone service. The Inmate Calling Service Providers Coalition (Coalition), an ad hoc coalition of companies that provide telephone equipment and services to inmates in confinement facilities, filed an appeal of the *First Report and Order on Reconsideration*¹ with the United States Court of Appeals for the District of Columbia Circuit. The Coalition contends that the Commission erred by failing to prescribe a special compensation charge for payphone providers who serve inmates, and by failing to address allegations of subsidies and discrimination on the part of Bell Operating Company payphone providers in favor of their own inmate payphone operations. On January 30, 1998, the court granted the Commission's motion for voluntary remand of the inmate issues in the *Order on Reconsideration*.²

Subsequent to the court remand, the Coalition has made several *ex parte* presentations to the Commission to present information regarding operation of the inmate payphone service marketplace.³ In this Public Notice, we invite parties to update their comments and refresh the record on the specific issues discussed below in order to provide a full and up-to-date record of the inmate issues in this proceeding.

First, we seek comment on state-imposed rate ceilings. The Coalition argues that, based on data from its members, thirty states have imposed rate ceilings on intrastate inmate calls that

¹ *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, *Order on Reconsideration*, 11 FCC Rcd 21233 (1996).

² *Inmate Calling Service Providers Coalition v. FCC*, No. 97 - 1046, slip op. (D.C. Cir. Jan. 30, 1998).

³ The summaries of *ex parte* presentations are available in the docket in this proceeding.

prevent inmate caller service providers from recovering the costs of doing business in the inmate environment in violation of section 276 of the 1996 Act. The Coalition requests that the Commission preempt each of the state rate ceilings. To ensure that the Commission has before it up-to-date data regarding state-imposed ceilings on inmate payphone services and information regarding the circumstances under which the ceilings apply, we invite the parties to refresh the record regarding the number of states that currently have established such ceilings, the amount of each state's ceiling, and the states, if any, where incumbent local exchange carriers provide inmate payphone services. In addition, we seek information regarding how the ceilings are applied. For example, do the ceilings apply to the local call, the operator service charge, or a combination thereof? We also seek information on whether the state-mandated intrastate rate ceilings apply only to inmate payphone calls or more generally to all calls made from payphones. Because our decisions in this proceeding involve a review of state-imposed ceilings, we invite comments from the states on this matter.

Second, we seek comment on compensation mechanisms for inmate caller service providers. The Coalition argues that the Commission has failed to prescribe fair compensation to inmate caller service providers in violation of section 276 of the 1996 Act. We invite the parties to update their comments on the compensation mechanism that should be applied to inmate payphone service providers. For example, if the \$.90 compensation element proposed by the Coalition is not adopted, we request that the parties specify a proposed compensation mechanism for inmate payphone service providers. In addition, we seek comment on whether a national inmate payphone service provider compensation rate should be adopted or whether compensation should be established for federal, state, and local institutions and vary by state; if so, we seek comment on how compensation should be determined.

Third, we seek up-to-date information regarding the costs to serve the inmate facilities and the level and nature of bad debt associated with inmate payphone providers. We also seek comment on whether the use of debit cards would mitigate the level of bad debt associated with the inmate payphone industry. In particular, we ask what specific factors prohibit the use of debit cards, and if such factors exist in each correctional institution. We also seek comment on whether the incumbent local exchange carriers experience the same type and level of bad debt that the Coalition has suggested in its pleadings and we encourage incumbent local exchange carriers to update their comments on this issue.

Finally, we invite the parties to update their comments to address whether the incumbent local exchange carriers have discontinued all intrastate and interstate subsidies and discrimination with respect to their inmate payphone services. If not, commenters should specify the type of subsidies or discrimination that remains.

This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. See 47 C.F.R. §§ 1.1200, 1.1206. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 C.F.R. § 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b).

Interested parties may file comments no later than June 21, 1999. Reply comments may be filed no later than July 21, 1999. When filing comments, reference CC Docket No. 96-128.

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 13 FCC Rcd 11322 (1998). Comments through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of all comments and reply comments. Paper comments and reply comments must be filed with the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 - 12th Street, S.W., TW-A325, Washington, D.C. 20554. In addition, one copy of each pleading must be filed with International Transcription Services (ITS), the Commission's duplicating contractor, at its office at 1231 20th Street, N.W., Washington, D.C. 20036, and one copy with the Chief, Competitive Pricing Division, Common Carrier Bureau, 445 - 12th Street, S.W., Room 5-A225, Washington, D.C. 20554.

For further information, contact Lynne Milne or Renee Terry, Competitive Pricing Division, Common Carrier Bureau, (202) 418-1520, TTY (202) 418-0484.

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